

Arizona Ombudsman-Citizens' Aide

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The Honorable Jan Brewer, Governor

Members of the Arizona Legislature

Pursuant to A.R.S. § 41-1376, I have the honor of submitting my annual report on the performance of our office during 2008.

Our job is to help citizens resolve problems with state government agencies. We do this by coaching them on how to resolve their problems themselves, providing informal assistance to clear up miscommunications and simple mistakes, and formally investigating more serious complaints.

Our *mission statement* is:

To improve the effectiveness, efficiency and responsiveness of state government by receiving public complaints, investigating the administrative acts of state agencies and, when warranted, recommending a fair and appropriate remedy.

As an office of the legislative branch of government, we are an independent and impartial place where people can go if they believe their government has treated them unfairly. We promote citizen involvement in government and enhance public accountability of state administrators.

For the public, we help assure that justice is done and that state administrators treat our citizens fairly, promptly, and respectfully. We are a practical alternative between merely voicing a complaint and resorting to litigation.

For the administrator, we provide an independent check to make sure that mistakes are caught and corrected. When we find that an agency did something wrong, we propose remedies. When an agency hasn't done anything wrong, we exonerate administrators from unjustified criticism.

For the legislature, we identify the unintentioned impact of well-intentioned laws and point out where statutes need to be clarified. We also help resolve particularly complex constituent problems. Our periodic reports provide a measurement of public satisfaction with state government.

This is our thirteenth annual report and we hope it paints a picture of what our office does for the people of Arizona. As in previous reports, we have included a generous sampling of the kinds of problems that citizens bring to us and how we responded to them.

This year set a record. We had more cases than any previous twelve month period in our history. In fact, our caseload increased by almost a thousand, from 3366 last year to 4293 this year. I attribute the increase to several reasons. First, more people have found out about our open-government role and are asking for help with public record and open meeting concerns. Second, the hiring freeze and budget cutbacks caused severe strain on state agencies which led to increased complaints from the people those agencies serve.

We are also finding it takes longer to resolve some complaints because agencies are shorthanded, or they don't have the resources to do things they have done in the past in the name of good customer service.

Another role we find ourselves performing recently is making sure that an agency's cut-backs are legal. When citizens complain that an agency has stopped providing a service, the state needs an impartial office, like us, to look at that question to determine whether the service is mandated by statute or is discretionary.

Finally, we are short people ourselves. Linda Stiles, one of our assistant ombudsmen, accepted a position in the Governor's Office and we don't have the funds to refill that position.

Consequently, we need to be much more careful about how we use our limited resources. The budget shortfall means we are not able to do as much for people as we have in the past and we must be selective about investigations. In fact, I have already decided to defer several investigations because we just don't have the resources.

Nevertheless, we are doing our best during these tough times to make sure that people get their legitimate complaints addressed. I could use your help as I try to prioritize our caseload. Please let me know if you have a concern, or one of your constituents has a concern, that you would like us to give a higher priority. We would appreciate your advice.

We hope you find this report useful and informative. Please contact us if you have any questions or comments. We welcome the opportunity to sit down and discuss our program with you.

Pat Shannahan
Ombudsman-Citizens' Aide

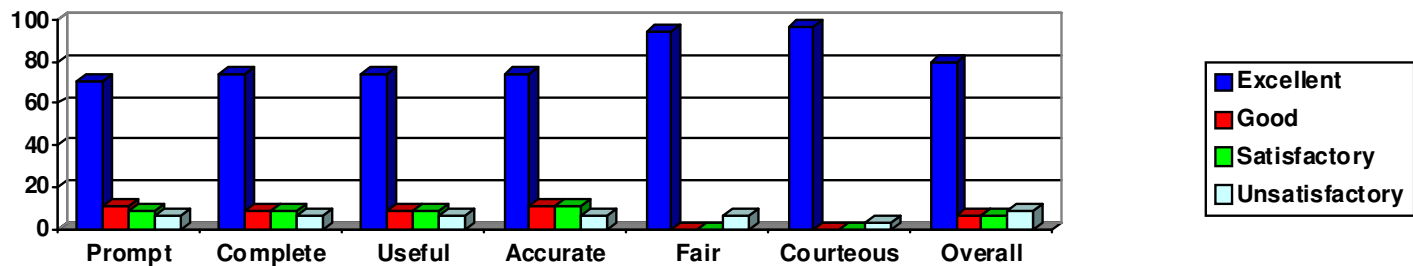
Customer Satisfaction Survey

It is important for us to receive feedback from the citizens we help so that we can evaluate our performance, correct shortcomings and improve our service. One way we get feedback is through our customer satisfaction survey. The survey measures how well we are accomplishing six standards that we developed in our strategic plan. These standards are:

- Respond **promptly** to citizen inquiries.
- Provide as **complete** a response as possible.
- Provide **useful** solutions to citizens.
- Provide **accurate** responses to citizen complaints.
- Treat everyone **fairly**.
- Treat everyone **with courtesy and respect**.

The following chart and comments summarize the results of the survey for calendar year 2008:

Customer Satisfaction Survey Results -- Percent



Selected Survey Comments from the Past Year

Excellence is not even close to how pleased I am with this office. You are the best!

I have done this type research for 25 years and have written books about it and you are just about the quickest and most customer oriented person yet.

Ms. MacDonnell explained ombudsman's position/rules and helped me. Wasted no time!! Professional attitude, not intimidating, very focused. Well done.

Linda talked to me like a friend would. Thank you.

The people in your office are great. Thank you.

How We Help People

The first thing we do is listen to the person's complaint. For some people this is the first time they feel that anyone in government actually listened to them. We then respond in the most appropriate way. We group responses onto three categories:

1. Coaching. Quite often, people come to us with problems they could handle themselves, if only they knew how. We try to help these folks by giving them the tools they need to go out and be their own advocate. Coaching includes:

- ✓ defining issues and rights,
- ✓ identifying options and interests,
- ✓ referring people to the right administrator;
- ✓ explaining agency policies and processes,
- ✓ identifying and researching information, and
- ✓ developing reasonable expectations.

2. Informal Assistance. Sometimes coaching isn't enough and people need a helping hand. Most complaints are the result of miscommunication, a simple mistake, or a glitch that caused the normal administrative process to break down. We try to resolve these problems as quickly and informally as possible. We may call an agency on the citizen's behalf, facilitate a meeting between the parties, or coordinate an action between agencies. Assistance focuses on solving the problem, instead of assigning blame.

3. Investigation. Some complaints are more serious and don't lend themselves to informal techniques. When the nature of the complaint warrants, we conduct an investigation. If, after an investigation we believe the complaint is justified, we work with the parties to try to reach an appropriate solution. Although we have no authority to compel an agency to follow our recommendations, most administrators are more than willing to resolve a legitimate problem once we bring it to their attention. If the complaint is not justified, we go back to the complainant and explain what we found and why we believe the agency acted appropriately. If necessary, we write a report of our findings and recommendations and send it to the agency, legislature, governor, public, and/or attorney general, as appropriate.

Sometimes the problem only impacts one person. In those instances, we can fix the problem for that individual and move on to other complaints. In other cases, however, there may be a fault in the system that caused this problem to happen. Unless we correct the system, this same problem could happen to someone else. When we see a systemic problem, we try to address it by making recommendations to the agency, or perhaps by suggesting a change in statute.

Examples of How We Help People

We want to give you a sense of how our efforts translate into actual results. The following case summaries are taken from the 4,293 cases we completed in 2008.

Sometimes our cases result in a change to statute or the Arizona Administrative Code.

800840. A homeowner filed for a water conservation system tax credit for his rainwater collection/storage tank. Since A.R.S. §43-1090.01(K) includes both rainwater and graywater collection systems, the complainant's rainwater system should have qualified for the tax credit. However, the Arizona Department of Revenue (ADOR) denied his request because his system did not comply with A.R.S. §43-1090.01(F), which required his system to meet Arizona Department of Environmental Quality (ADEQ) rules for graywater collection

We found that A.R.S §43-1090.01(F) and (K) created a catch 22. One statute granted a tax credit and the other statute made it impossible to get the tax credit. We sent a letter to the legislature explaining our concern. The legislature amended the 2008 Tax Corrections Act to correct the inconsistency.

803595. A driver objected to ADEQ and MVD not giving him the option of a two-year car registration. The man said that staff explained that according to the ADEQ car manual, his vehicle had all-wheel drive traction control and was therefore only able to take an idle control test. ADEQ said idle tests are not eligible for the two-year registration because their measurements are not as precise as the IM147 test. They said A.A.C. R18-2-1006 (E) (2) and (4) requires the idle test.

We noted the rule did not list all-wheel drive vehicles or traction-control vehicles. ADEQ acknowledged this oversight. We also told ADEQ that the car owner had a letter from the manufacturer saying that he did not have traction control or all-wheel drive. ADEQ agreed to change the rule to add the terminology about all-wheel drive vehicles. They also agreed to grant the man a two-year test and documented the situation to make sure their staff used accurate information in the future.

Sometimes our cases result in a change to agency policies and procedures.

701872. A special education advocate alleged that the Arizona Department of Education's Division of Exceptional Student Services failed to effectively communicate the Procedural Safeguards Notice (PSN) as mandated by The

Individuals with Disabilities Act and the U.S. Department of Education. The PSN informs parents of their child's right to get special educational services.

After reviewing the federal requirements and the Department's handout, we agreed that we were not doing an adequate job of informing parents of their rights. We found that the existing handout was merely an extract from the Code of Federal Regulations and very hard to understand. We recommended that the Department provide user friendly materials to parents. As a result, they produced the "Traveling the Special Education Highway: A Parent's Guide to a Successful Journey," which they distributed to school districts throughout the state and is also available to download from the ADE website. In addition, we recommended that ADE modify the home page of their website to make it easier for parents to find this information. Now, when you click on the word "Programs", a menu appears, including a Special Education link.

800296. A Certified Nursing Assistant went to renew her CNA license with the Nursing Board. They informed her that she was required to show that she was eligible to work in the U.S. She presented her Certificate of Naturalization, but the Board would not accept it. We verified that this certificate is issued by Immigration and Customs Enforcement (ICE) and should be accepted as proof of citizenship.

We contacted the Nursing Board, verified that the Certificate of Naturalization was not on their list of acceptable proof. After several phone calls to the Assistant Attorney General, the Board decided to accept the Certificate of Naturalization and renewed her license. In addition, the Nursing Board added the Certificate of Naturalization to their list of acceptable proof of U.S. citizenship so that in the future, other people will be able to use this document.

802023. A retiree alleged that the Arizona State Retirement System (ASRS) made misrepresentations about the Senior Supplement health plan. As a result, he was overcharged for his prescriptions. We investigated the case and found that the ASRS 2008 Enrollment Guide description of the Senior Supplement plan formulary was inaccurate. We proposed a more clear and accurate phrasing of the formulary description to ASRS so that enrollees could make better informed benefit choices. ASRS agreed and included our recommendation as a revision to the 2009 enrollment guide. Further, ASRS reimbursed the retiree's prescription expense overpayment calculated at \$1,285.85.

803334. Members of an accounting association thought the Department of Economic Security (DES) was not properly handling limited liability companies (LLCs) concerning the collection of unemployment insurance tax. They said the IRS was auditing their clients because Arizona was not charging some LLCs unemployment insurance when they should. This situation raised a flag at the IRS and led to unnecessary audits. The accountants stated they had been unsuccessful in their attempts to get DES to adjust their policy.

We reviewed the accountants' arguments and the relevant statutes. We developed seven questions and asked DES attorneys to examine them and justify the DES position. The attorneys' review led them to change the DES policy, bringing it into conformity with IRS procedures. The unnecessary IRS audits of Arizona LLCs stopped.

Sometimes we tackle systemic problems.

20062692. Twenty-seven families filed abandonment and workmanship complaints against a contractor. Most of these complaints took over two years to work through the ROC system. Twenty-three complaints resulted in discipline, two settled and the contractor won two. Nine families received Recovery Fund reparations. Seven families "won," yet received nothing because the Recovery Fund had reached its limit for this contractor. Nine of these families filed complaints with the Ombudsman Office.

The complainants alleged the Registrar of Contractors processed the complicated Recovery Fund complaints in an untimely manner. We investigated and substantiated the allegation, confirming that the ROC system is both untimely and unnecessarily complicated. As a result of our investigation, we made 63 findings and 68 recommendations to improve the ROC system. Thirty-six of the recommendations requested legislative action. Thirty-one recommendations require action by the Registrar of Contractors and one by the Office of Administrative Hearings. Currently, we are working with the ROC to correct flaws in their system and several legislators are considering statutory changes.

Sometimes we quickly resolve a longstanding problem.

800616. A non-custodial father was upset that the Department of Economic Security - Division of Child Support Enforcement (DCSE) was still trying to collect arrears when Indiana (the lead state) had officially closed the case three years earlier. For the past three years DCSE staff repeatedly assured the family they would correct the file, yet they kept applying the errant charges to the man's account. Recently, they even referred his case to a collection agency and took his tax refund.

We worked with DCSE managers who reviewed court documents and finally closed the case. Although the father was happy that DCSE closed the case, he asked us to locate his missing tax refund because the IRS told the man they had already sent the money to Arizona. DCSE put an immediate hold on the account so that the refund money would not be forwarded to the custodial parent in error. When the IRS funds came into DCSE, they sent the check to the father.

802055. A real estate broker and her licensee husband complained that ADRE had been investigating them for seven years in regard to an allegation that they violated subdivision law. The couple said this investigation had gone no-where in seven years, yet it was a black mark against them and had cost them a lot of business.

We contacted the Department and found the case had very limited evidence and had been slowed by staff turnover. We asked the Department what grounds they had to keep the case open. The Department could not give us a firm rationale and closed the case.

801045. A mother complained that even though she provided health insurance for her children, Department of Economic Security - Division of Child Support Enforcement (DCSE) had also been garnishing her wages to cover the cost of medical insurance. Therefore, she was paying for health insurance twice. She contacted DCSE numerous times over the past several years and they repeatedly told her they would correct their records, but each month her wages were still garnished.

We contacted DCSE and they corrected the problem immediately and stopped the unnecessary collection. She called us to thank us for finally getting the agency to take care of this longstanding problem.

801584. A licensee called complaining about the Department of Liquor License and Control. She had notified the Department every year for the past 8 years about the change of their Board of Directors and change of ownership but the Department had not updated their records. She recently received two incorrect notices and wanted to know what to do to get the information updated.

We contacted the Department of Liquor License and Control and verified that they already had the information they needed to update the records, but had not posted it. They corrected the problem and issued the license.

801412. A licensed contractor said the Registrar of Contractors (ROC) had not amended his file to show that he made the corrections in regard to a consumer's complaint against him. He provided the necessary documentation to the ROC three months previously, but the ROC had not lifted the suspension on his license, causing him to lose business. When he called the ROC, he was told that it was "on somebody's desk."

After we contacted the ROC, they processed the paperwork and lifted the suspension of the contractor's license. We know that three months may not seem like a long time to some people, but it is an eternity for a small businessman who can't work. The contractor thanked us for our help.

Sometimes we resolve a problem that an agency has not been able resolve internally.

800038. A man called complaining about Arizona State Retirement System (ASRS). He told us that their records indicate that he enrolled with ASRS in August 2005 when it should be August 2004. After numerous calls, he still could not get anyone at ASRS to help him.

We contacted ASRS and after reviewing the complainant's file, we learned that for the first year of service, ASRS used an incorrect social security number that was off one digit from his correct social security number. ASRS acknowledged the mistake and corrected the problem.

800712. A custodial parent said that Arizona was not responding to the State of Virginia about her child support case and they were not speaking to her either. The mother went on to explain that the Department of Economic Security - Division of Child Support Enforcement (DCSE) failed to apply the new court stipulated child support amount in the system. As a result, the mother only received a third of what she was entitled to get. Both she and Virginia had repeatedly faxed the information to DCSE, yet it always got lost. She asked us to help get the problem resolved.

We contacted DCSE and they agreed the custodial parent was correct - DCSE staff had not updated their system with the new information. DCSE changed their records to reflect the higher amount and contacted the non-custodial parent to inform him of the impending higher claim to his wages. We called the mother and verified that DCSE had staff contacted her and fixed the problem.

802821. A foster mom was concerned that her teen daughter was not receiving replacement teeth in a timely manner. The teen had been in an accident and her front teeth were broken off. The teen could not talk right without the teeth and was upset at her appearance. The foster mom said that she and the dentist both requested that the Arizona Health Care Cost Containment System (AHCCCS) insurer APIPA make an expedited decision, but the company was excessively slow. The mother had tried to get AHCCCS to prod the company to no avail. The mother was upset the delay in medical treatment had already taken a week and they were no closer to getting the teen girl's teeth fixed.

We reviewed the case with AHCCCS and noted their program covered dental care for minors. AHCCCS managers reviewed the case and reminded APIPA of their obligations. The teen was approved for the device.

802024. A taxpayer believed that the Arizona Department of Revenue (ADOR) improperly credited his tax payment to another person. He said he placed several phone calls to ADOR, but was not able to get the problem resolved. ADOR

customer service told him they would look into the issue, but he never received a confirmation that the mistake had been corrected.

We contacted ADOR and a tax officer reviewed his file. It was discovered that ADOR had credited his 2007 tax payment to the wrong social security number. One of the account number digits had been transposed. The complainant's stimulus check was also incorrectly credited.

ADOR sent a letter to the complainant explaining the error, generated a check in the amount of the stimulus payment, plus refunded the penalties and fees associated with the account. The complainant called us to confirm receipt of the letter and thanked us for our assistance.

802975. A grandmother, who was caring for her 3 grandchildren, had been trying to get their AHCCCS case moved from Tucson, where the parents lived, to Gila County, where the kids were now residing. Since the Pima County AHCCCS provider did not serve Gila County, she had not been able to take them to the doctor.

We called our contact who worked with the Tucson and Payson Offices to get the case opened in Gila County. The family was approved as of the following month, but our contact was able to declare this an emergency situation and the children were able to receive medical care immediately.

801923. A non-custodial parent (NCP) sold his car to pay his back child support and clear his account. Unfortunately, the Department of Economic Security - Division of Child Support Enforcement (DCSE) had placed a lien on his vehicle title and he couldn't transfer the title until they released the lien. He complained to us that DCSE put him in a Catch 22.

We contacted DCSE and they released the lien and sent a fax to MVD notifying them so the NCP could get his title transferred and settle his child support account.

802293. A former Department of Economic Security (DES) worker complained that she did not have a chance to appeal her dismissal. She said that she had tried to resolve the issue with DES for several weeks before contacting our office. Even though she had corrected her home address several times, DES sent the notice to the wrong address. She was dismissed on January 23, 2008 but did not receive the letter until the end of February 2008, after her ten-day period to appeal the dismissal had passed.

We contacted DES and found that the employee relations specialist mistakenly entered the wrong zip code on her dismissal letter.

We then discussed the case with the Arizona Personnel Board (Board). The Board accepted her appeal, even though it was too late, because DES made the error. The complainant was happy to finally appeal her dismissal.

Sometimes we simply correct a mistake or make sure that government agencies treat our fellow citizens the way we all should be treated by our government.

801717. A motorist said he bought a hybrid car on April 20, 2008. At the time, MVD told him that the clean air vehicle plates were still available. By the time MVD had processed his application, clean air vehicle plates were no longer available. He thought the MVD should not have said that the plates were still available when they weren't.

We contacted MVD and after reviewing his application, discovered that he had submitted his paper work before the deadline. MVD provided us with the special form for him to complete in order to get the clean air plates. We forwarded him the special application along with instructions, including where to send it and the name of the person to send it to.

The motorist sent the application to the proper place and a couple of weeks later he sent us an e-mail letting us know that he received his tags and thanked us for our help.

800176. A legal aid called complaining about the Secretary of State's office (SOS). She indicated that the SOS rejected an amendment for a Uniform Commercial Code filing. The reason the SOS cited was that they could not file a lien on livestock. The complainant indicated that the firm has been doing this since 2001 and was not aware of any law changes. She asked to speak with a supervisor, but the supervisor did not return her call.

We contacted the SOS and after reviewing the reason for rejection, they determined that it was an error. They informed us that the complainant could resend the amendment and it would be approved, providing all other information was correct. The SOS also provided a name that the complaint could send the amendment to. The SOS approved the amendment.

802469. A corporate president said the Arizona Corporation Commission (ACC) erroneously changed the names of the officers in his corporation in their records. When he contacted the ACC, they told him they just record the paperwork that is presented to them and that he should get legal advice.

We researched the ACC's website and did not find any records requesting a change in officers. When we contacted ACC, they corrected the records.

Public Access Program

During the past year we have continued to expand the public access program and encourage consistent openness in government.

OUTREACH AND EDUCATION

Educational Materials

We continue to receive requests for copies of our open meeting law and public records law booklets. In May, we printed the third edition, which is also available on our website. We have plans for significant improvements to the next edition.

Newsletter

In July 2008, Liz issued our first public access newsletter called The Public Record. The newsletter was sent to numerous public entities throughout the state. Receiving positive feedback she has created an email distribution list and disseminates the newsletter on a quarterly basis to anyone interested. The newsletter is also available on our website and includes information on hot issues relating to Arizona's open meeting law and public record laws, legislative updates, summaries of recent attorney general opinions, summaries of new court opinions, information on upcoming training opportunities, and more.

In addition, Liz continues to submit Q and A to the Arizona Newspaper Association for its newsletter.

Website

We continue to update our website with current information, publications, and training opportunities.

Training

Requests for training have steadily increased. In 2008, Liz conducted 20 public records law trainings and 18 open meeting law trainings; more than three times the number of trainings provided in 2007. She also made several presentations to various government and private groups discussing the role of our office. To date, there are 15 training sessions scheduled in 2009. While trainings are primarily provided for public bodies throughout Arizona, Liz also provides training for the Attorney General's Office, the State Bar of Arizona and LORMAN Educational Services.

Last October, in an effort to streamline training and reduce travel expenses, Liz started a monthly training program at the Carnegie Center in Phoenix. She plans to continue this program and currently has trainings scheduled through June 2009. We intend to look into the use of web-casts as well to better accommodate the more remote areas of Arizona without incurring costly overnight travel.

Liz continuously updates and creates new training materials for attendees. She also provides training materials to government entities for their own internal use.

INQUIRIES AND INVESTIGATIONS

During 2008, we received 636 calls regarding matters related to public access. This is 268 more calls than we received during 2007. Of those calls, 468 were public record inquires (74 percent) and 168 (26 percent) were open meeting inquiries. Table 1 provides a breakdown of the number of inquires received from the public, the media, and government agencies. Table 2 provides the number of inquiries received about state agencies, county agencies, city or town agencies, school districts, and other local jurisdictions.

Table 1

	Inquiries from the Public	Inquiries from the Media	Inquiries from Government Agencies
Number of inquires	352	53	231

Table 2

	Inquiries About State Agencies	Inquiries About County Agencies	Inquiries About City or Town Agencies	Inquiries About School Districts	Inquiries About Other Local Jurisdictions
Number of inquires	186	85	207	88	70

Of the 636 inquiries, the large majority were coaching and assistance. Fourteen resulted in an investigation. All matters were resolved informally, with the exception of one case that was carried over from 2007, which resulted in a final report of misconduct.

TRENDS

During the past year we have continued in our efforts to increase government's awareness of Arizona's public access laws and resolve public access disputes. In doing so, we have handled a variety of public record law and open meeting law issues. However, many of the public record complaints involved similar issues, identifying trends that we brought to the attention of the legislature. Those trends included the interpretation and inappropriate application of A.R.S. § 41-4172 regarding disclosure of personal information, inappropriate and excessive fees, and inconsistent policies regarding access to electronic records. In the open meeting law arena, we discovered a need for several clarifications to Arizona's open meeting law. Accordingly, we are currently working on several items of legislation.

SAMPLE CASES

Fortunately, more often than not, our intervention resolves matters on a case-by-case basis. Following are a few examples of cases that led to changes in agency policies, practices, and procedures relating to public access in Arizona.

Disclosure of personal information

Although treatment of personal information remains inconsistent among public bodies in Arizona, we have successfully corrected the misapplication of A.R.S. § 41-4172 on a few occasions. One example is a complaint we received involving the Arizona Department of Racing. A woman called very upset that license applications she obtained from the Arizona Department of Racing redacted the address and phone number of the applicants. We contacted the Department and the Department's Assistant Attorney General. They were under the impression that A.R.S. §§ 41-4171 and -4172 required redaction of addresses and telephone numbers. We explained that that particular statute does not apply to public records. Unless a statute specifically precludes disclosure of the applicant's address and telephone number, the Department must perform a privacy balancing test on a case-by-case basis as prescribed by case law. As a result, the department changed its policy and in this particular case, disclosed the information.

Copying Fees

Arizona's public records law permits a reasonable copying fee for copies of public records. The courts have determined that this includes the cost of materials, equipment and personnel used in reproducing the copy. However, many public bodies impose excessive fees for copies of both paper and electronic records.

Last Fall, a reporter complained that the Maricopa County Sheriff's Legal Compliance Division imposed a \$10.00 labor fee in addition to its standard copying fee of .50 per page. We contacted the Legal Compliance Division regarding this matter. We explained that the law does not permit additional labor fees and recommended that they discontinue imposing a \$10.00 labor fee for public record requests. They agreed and accepted our recommendation.

Flat fees for copies of police reports are another example of inappropriate fees. Many law enforcement agencies charge upwards of \$10.00 per report regardless of length. As a result, a person may be charged \$10.00 for a two or three page report. In one case, an individual contacted us after the Buckeye Police Department charged him \$7.00 for a copy of his son's police report. The report was two pages, one of which was blank. We contacted the department and asked that it justify its fee and explain to us how it cost the department \$7.00 to copy two pages. After working with the town, the police department agreed to

change its fee policy and charge .50 per page, which is consistent with the town clerk's copying fee.

Access to meeting recordings

We also discovered disconnect between new state retention policies for recordings of public meetings and agency practice. A civil rights activist complained that he was denied access to a recording of a school board meeting because the recording was prematurely destroyed. We discussed these matters with the school district superintendent. He explained that it has always been the school district's policy to erase and reuse audio tapes once they are transcribed into written minutes.

We explained to the Superintendent that while that used to be an acceptable practice, the requirements had changed. Arizona's open meeting law requires that public bodies have written minutes or a recording of its meetings. Historically, if a public body had written minutes, any recording could be reused or destroyed immediately. During the past couple of years, however, Arizona Library and Archives has been updating its general retention and destruction schedules. In November 2007, the schedule for school districts changed the retention period for recordings of meetings. The revised schedules require all public bodies, including school districts and their governing boards, to maintain any recordings of board meetings for three months from the date of the meeting or from when the tape is transcribed, whichever is later. During that time the tape is a public record and must be made available to the public upon request. This was the first the Superintendent had heard of this change. The school changed its policy accordingly. We also notified the Arizona School Board Association of this change.

Child Protective Services

The role of the Assistant Ombudsman for Child Protective Services (CPS) is to help people who are having a problem with the state agency that serves to protect children. Parents, grandparents, other family members, as well as foster parents and service providers contact our office when they believe CPS has treated them unfairly. The help we provide to our callers ranges from simple coaching and informal assistance, to the opening of an investigation. We also work on cases that members of the state legislature refer to us.

The most extensive investigation we conducted this year involved the removal of a child from her mother who was suspected of Munchausen Syndrome by Proxy (MSBP). The mother complained that the agency had not done a thorough investigation of the allegations. We reviewed agency records, as well as records and evaluations provided by the mother. We also interviewed the CPS investigator, CPS unit supervisor, the mother, father and the mother's attorney. In addition, we studied the written policy of the department regarding cases where Munchausen Syndrome by Proxy is suspected.

Based on the results of our investigation, we determined that the agency had not done a thorough investigation, did not conduct interviews as required by policy, did not collect collateral records and did not provide timely services to the mother. However, we did find that CPS had the necessary policies and procedures in place for the handling of complaints involving Munchausen Syndrome by Proxy. The problem was that the case worker did not follow the appropriate procedure and no one corrected her. Eventually the child was returned to her mother. Our recommendations included the need to provide training to this worker and supervisor about the policy requirements of an investigation that alleges MSBP. Due to the findings, we wrote a formal report, which we sent to the agency, the complainant and the state Legislature.

Many family members call us who are eager to take on the responsibility of caring for children who require out of home placement. The relatives express frustration at what they feel is the lack of response from CPS. We coach these family members by explaining why CPS must complete background checks, home studies and, at times, best interest evaluations. We also help them negotiate the complicated process.

One such case involved grandparents who wanted to obtain guardianship of their newborn granddaughter. The child was born with illegal substances in her system and a report had been generated to CPS. The grandparents, who already had guardianship of the child's siblings, had filed the paperwork to take guardianship of the child and were upset that CPS placed her into foster care instead of with them.

We reviewed the case record, spoke with agency staff and concluded that there was a misunderstanding about the type of guardianship that the child needed. We explained to the grandparents that there are two types of guardianships: Title 8 and Title 14. One type entitles the guardian to care for the child until he or she is eighteen years of age. The other type allows parents to revoke it when they feel that they are in a position to parent again. The grandparents had applied for the second type.

We told the grandparents that CPS does not place children into that type guardianship because they are concerned that a child may go back to an unsafe environment without an appropriate review. Although CPS agreed with placing the child with her grandparents, it needed them to apply for the more stable version. The grandparents were pleased to know that guardianship was possible, and they just needed to apply for the correct type.

We coordinated a meeting between the grandparents and the CPS unit supervisor so that CPS could help them complete the process to get guardianship of their granddaughter. Not only was this little girl allowed to stay with her grandparents, but she was placed with her siblings, instead of a foster home.

Another case involved a case worker who was not complying with a legal requirement. When CPS conducts an investigation against a parent or guardian, Arizona Revised Statutes § 8-803 requires them to inform them of the allegations and also provide them an overview of their rights and responsibilities. CPS uses a form PS-045 to document this. We believe it is important for parents to know the allegations against them so they can defend themselves. The father complained that although he was given a form, it did not include the allegations.

As a result of our investigation, we determined that the CPS investigator had not completed the form correctly and did not providing a written account of the allegations in the space allotted. We also found that the local office routinely did not fill out the allegations block on the PS-045.

Due to our concern that perhaps other offices and workers were not filling out the form correctly, we went to the agency's central office. The representative agreed that this issue might be happening on a larger scale. Therefore, the central office contacted all of the program managers and reemphasized the requirement to complete the form in its entirety, thus allowing the agency to be in compliance with state law. Since this investigation, we have found that local offices are filling out the form correctly.

We had another case involving the PS-045. This time, a father complained that he did not even get the form. He reported that the investigator had provided it to the children's mother, who lived in another residence, but not to him. The father

complained that CPS had not complied with the law because they had not notified him of his rights or given him written documentation of the allegations.

We contacted the unit supervisor, who faxed over the form that the mother had signed. The supervisor also confirmed that an additional copy had not been given to the father when he was interviewed. Once again, we contacted the central office to review current policy regarding the PS-045. According to policy, both parents should receive this form and have their rights explained.

At our request, the department contacted each district and had them educate their investigators about the need to provide both parents with their own PS-045 and for each to have their rights explained to them. In this specific case, the investigator went out again to the father's residence, had him review and sign the form and gave him a copy.

Quite often, foster parents contact us with their concerns. For example, a husband and wife, who are licensed foster and adoptive parents, were concerned about the possible removal of a safe haven baby placed in their home. They learned that the agency had located a permanent home for the child and would be removing the baby girl and placing her elsewhere. The foster parents were upset because they were on the adoption registry for the agency and wanted to keep the baby.

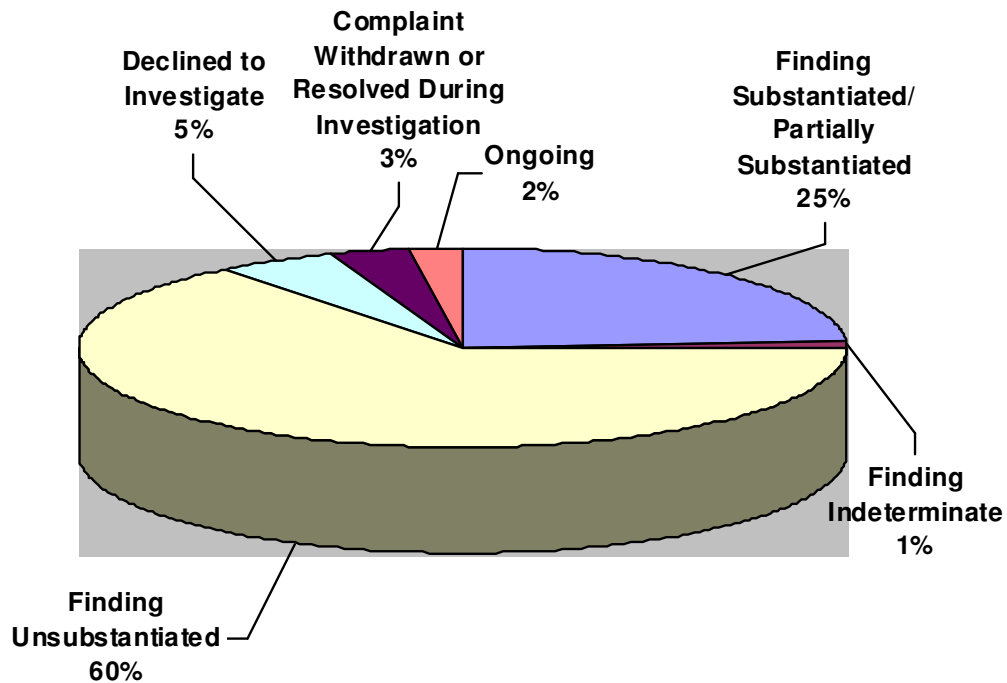
Upon contacting the adoption unit program manager, we learned that the agency's policy is to temporarily place safe haven children into foster care and then locate a permanent adoptive home. We also learned that CPS does not explain to foster parents how temporary the placement of a safe haven baby can be.

In this case, CPS decided not to remove the child when they learned that the family was certified to adopt and had expressed an interest in keeping the child.

In addition, CPS reevaluated their policy concerning safe haven babies and the foster parent agreement that all foster parents sign when they become licensed. Subsequent to this review, they changed both the policy and agreement to include information specifically addressing safe haven babies, so that there will not be another misunderstanding, and so that foster parents will be able to make informed decisions when they accept placement of safe haven babies. The foster parents were very happy to hear about these changes because they did not want another family to go through this same situation.

In conclusion, our main focus is to make sure CPS is doing what it should do to protect children and help families. We do this by investigating individual complaints and resolving legitimate grievances. We also look at the system and make recommendations to correct statute, policy and procedure, when it is warranted.

Results of Investigations



- Finding Substantiated/Partially Substantiated
- Finding Indeterminate
- Finding Unsubstantiated
- Declined to Investigate
- Complaint Withdrawn or Resolved During Investigation
- Ongoing

REQUESTS FOR INVESTIGATION

Declined*	13
Complaint withdrawn or resolved during investigation	8
Investigation completed	230
Ongoing	6
TOTAL REQUESTS FOR INVESTIGATION	257

* The Ombudsman-Citizens' Aide has the statutory authority to decline to investigate a complaint if there is another adequate remedy available; the complaint relates to a matter that is outside the duties of the ombudsman-citizens aide; the complaint relates to an administrative act that the complainant has had knowledge of for an unreasonable time period; the complainant does not have a sufficient personal interest in the subject matter of the complaint; the complaint is trivial or made in bad faith; or the resources of the office of ombudsman-citizens aide are insufficient to adequately investigate the complaint.

INVESTIGATIVE FINDINGS

SUPPORTED/PARTIALLY SUPPORTED		62
Requires further consideration by agency	31	
Other action by agency required	10	
Referred to the legislature for further action	0	
Action was arbitrary or capricious	0	
Action was abuse of discretion	0	
Administrative act requires modification/cancellation	12	
Action was not according to law	7	
Reasons for administrative act required	1	
Statute or Rule requires amendment	0	
Insufficient or no grounds for administrative act	1	
INDETERMINATE		2
NOT SUPPORTED		166
TOTAL INVESTIGATIVE FINDINGS		230

CONTACTS BY AGENCY

Agency	Coaching	Assistance	Investigation	Total
Accountancy Board	4	2	0	6
Administration, Department of	13	11	1	25
Administrative Hearings, Office of	0	3	0	3
Agriculture, Department of	2	3	0	5
AHCCCS	42	48	1	91
American Heritage Academy	1	0	0	1
Amphitheater Public School District	0	0	1	1
Apache	1	0	0	1
Apache County Attorney's Office	1	0	0	1
Apache County Board of Supervisors	2	0	0	2
Apache County Planning and Zoning Board	1	0	0	1
Apache Junction	1	0	0	1
Apache Junction Police Department	1	0	0	1
Appraisal, Arizona Board of	3	3	0	6
Arizona Ball Charter Schools	1	0	0	1
Arizona Government University	1	0	0	1
Arizona Juvenile Justice Commission	0	1	0	1
Arizona Office for Americans w/ Disabilities	1	0	0	1
Arizona Peace Officer Standards and Training Board	0	1	0	1
Arizona School Board Association	2	0	0	2
Arizona State Hospital	1	0	0	1
Arts, Arizona Commission on	2	0	0	2
Attorney General, Office of	50	19	1	70
Auditor General	2	0	0	2
Avondale	1	0	0	1
Ball Charter Schools	1	0	0	1
Barbers, Arizona Board of	0	1	0	1
Behavioral Health Examiners, State Board of	6	12	3	21
Benson	0	1	0	1
Black Canyon Fire District	1	0	0	1
Board of Legal Document Preparers	1	0	0	1
Boxing Commission	0	2	1	3
Buckeye City Clerk	7	0	0	7
Buckeye Police Department	0	0	1	1
Buckskin Fire Department	4	1	1	6
Bullhead City	1	0	0	1
Bullhead City Council	0	1	0	1
Calli Ollin Schools	1	0	0	1
Candeo Schools	2	1	0	3
Casa Grand Police Department	2	0	0	2
Casa Grande	1	0	0	1
Cave Creek	0	1	0	1
Central Arizona Project	2	1	0	3
Chandler	3	2	0	5
Chandler Heights Citrus Irrigation District	0	1	0	1
Charter Schools, Arizona State Board of	8	1	0	9
Chevron Butte	1	0	0	1
Chino Valley	2	0	0	2
Chiropractic Examiners, State Board of	5	3	4	12
Citizens Clean Elections Commission	1	0	0	1

City of Maricopa	9	1	0	10
Clarkdale	1	0	0	1
Cochise	2	2	0	4
Commerce, Department of	2	2	0	4
Commission for the Deaf & Hard of Hearing	1	1	0	2
Commission of Judicial Conduct	1	1	1	3
Compensation Fund	1	1	0	2
Congress	4	0	0	4
Congress Domestic Water District	2	2	0	4
Congress Elementary School District	1	2	0	3
Connections Academy	1	0	0	1
Coolidge Unified School District	0	1	0	1
Copper Canyon	0	1	0	1
Corporation Commission	22	10	0	32
Corrections, Department of	39	7	4	50
Cosmetology, Board of	4	6	0	10
Cottonwood	1	0	0	1
Cottonwood Police Department	1	1	0	2
County Supervisors	1	0	0	1
Deaf and Blind, Arizona School for the	2	3	0	5
Deer Valley Unified School District	0	1	0	1
Dental Examiners, Board of	17	13	1	31
DES - Aging & Community Services	117	13	2	132
DES - Benefits and Medical Eligibility	66	163	1	230
DES - Child Protective Services	265	352	178	795
DES - Child Support Enforcement	29	150	3	182
DES - Children and Family Services	2	3	0	5
DES - Developmental Disabilities	7	23	2	32
DES - Employment and Rehabilitation	25	120	0	145
DES - Other	29	9	1	39
DES- Adult Protective Services	4	5	1	10
Desert Marigold School	1	0	0	1
Dewey	0	1	0	1
Dewey-Humboldt	8	0	0	8
Dewey-Humboldt Town Council	3	1	0	4
Discovery Plus Academy	1	0	0	1
Early Childhood Development & Health Board	2	0	0	2
Education, Department of	8	5	0	13
EduPreneurship Student Center	1	0	0	1
El Mirage Police Department	1	0	0	1
Elfrida Fire District	1	0	0	1
Environmental Quality, Department of	6	5	4	15
Equalization, State Board of	0	2	0	2
Exposition & State Fair Office	2	0	0	2
Financial Institutions, Arizona Department of	15	5	1	21
Fingerprinting, Board of	2	5	0	7
Fire Building and Life Safety, Department of	15	4	0	19
First Things First	1	0	0	1
Flagstaff	1	0	0	1
Flagstaff City Clerk	1	0	0	1
Fountain Hills	3	0	0	3
Frye fire district	1	0	0	1
Ft. Mohave Fire District	1	0	0	1

Funeral Directors & Embalmers, State Board of	2	1	0	3
Game and Fish, Department of	5	1	1	7
Gaming, Department of	3	1	0	4
Gila County Board of Supervisors	1	0	0	1
Gilbert	3	0	0	3
Gilbert Police Department	1	0	0	1
Glendale	5	2	0	7
Glendale City Court	1	0	0	1
Glendale Police Department	1	0	1	2
Globe	1	0	0	1
Globe School District	1	1	0	2
Goodyear	5	0	0	5
Government Information Technology Agency	1	0	0	1
Governor, Office of	9	7	0	16
Governor's Council on Developmental Disabilities	2	0	0	2
Green Valley Police Department	1	0	0	1
GRRC	1	0	0	1
Guerrero/ Luv Charter Academy	1	0	0	1
Harvest Prep Academy	1	0	0	1
Health Services, Department of	71	23	3	97
Health Services, Vital Records Office	6	13	0	19
Historical Society, Arizona	0	1	0	1
Holbrook	1	5	0	6
Homeopathic Board of	1	0	0	1
Homeowners Associations	4	1	0	5
Housing, Department of	1	1	0	2
Indian Affairs, Arizona Commission of	1	0	0	1
Industrial Commission	56	19	0	75
Insurance, Department of	27	11	1	39
Judicial Conduct, Commission on	7	0	0	7
Juvenile Corrections, Department of	1	0	0	1
Lake Havasu City Attorney's Office	1	1	0	2
Land, Department of	1	3	1	5
Legislature	59	12	0	71
Liberty Elementay School District #25	1	0	0	1
Library, Archive & Records Dept.	5	0	0	5
Liquor Licenses and Control, Department of	3	4	1	8
Litchfield Park	2	0	0	2
Lottery	1	1	0	2
Maricopa	6	0	0	6
Maricopa Association of Governments	0	1	0	1
Maricopa City Council	2	0	0	2
Maricopa County Community College	0	1	0	1
Maricopa County Head Start	1	0	0	1
Maricopa County Planning and Development	0	1	0	1
Maricopa County Recorder	0	2	0	2
Maricopa County Sheriff	7	3	1	11
Maricopa County Superior Court	1	0	0	1
Maricopa Integrated Health System	4	1	0	5
Maricopa Police Department	1	0	0	1
Maricopa Special Health Care District	1	0	0	1
Massage Therapy, State Board of	1	3	0	4
Mayer	1	0	0	1

Mayer Fire District	5	0	0	5
Medical Board, Arizona	18	8	3	29
Mesa	2	1	0	3
Mesa City Council	1	0	0	1
Mesa Police Department	0	2	0	2
Mesa School District	0	1	0	1
Mojave	1	0	0	1
Montessori Center	1	0	0	1
Mountain Oak	1	0	0	1
Naturopathic Physicians Board of Medical Examiners	0	0	1	1
Navajo	1	0	0	1
Navajo County Attorney's Office	1	0	0	1
Northern Cochise Community Hospital	2	0	0	2
Northland Preparatory Academy	1	0	0	1
Northwest Fire District	2	1	0	3
Nursing Care Institution Administrators & Assisted Living Managers Examiners Board	0	2	0	2
Nursing, State Board of	16	10	3	29
Office of Pest Management	2	0	0	2
Ombudsman	84	4	0	88
Optometry, State Board of	2	1	1	4
Osteopathic Examiners in Medicine and Surgery, Board of	2	3	0	5
Other - Government	406	36	1	443
Other - Private	350	12	0	362
Palominas Fire District	13	2	1	16
Paris Fire District	1	0	0	1
Parker	0	1	0	1
Parks, Department of	0	1	0	1
Patagonia	1	1	0	2
Payson Police Department	0	0	1	1
Peace Officer Standards & Training Board	2	0	0	2
Pearce Fire District	1	0	0	1
Peoria City Attorney's Office	2	0	0	2
Peoria Unified School District	4	1	0	5
Pharmacy, Board	1	0	0	1
Phoenix	0	1	0	1
Phoenix Municipal Court	0	1	0	1
Phoenix Police Department	3	5	0	8
Phoenix Union	0	1	0	1
Phx-Mesa Gateway Airport	1	0	0	1
Pima	1	0	0	1
Pima Association of Governments	1	0	0	1
Pima County Attorney's Office	2	1	0	3
Pima County Clerk	0	1	0	1
Pima County Medical Examiner	0	1	0	1
Pima County Sheriff's office	1	2	0	3
Pinal	4	2	0	6
Pinal County Attorney's Office	4	0	0	4
Pinetop-Lakeside	6	2	0	8
Pioneers Home	0	2	2	4
Podiatry Examiners, State Board of	0	3	2	5
Postsecondary Education, Arizona Commission for	1	1	0	2
Prescott	7	0	0	7

Prescott City Council	1	0	0	1
Prescott Valley	1	0	0	1
Prescott Valley Police Department	1	0	0	1
Private Post-Secondary Education, Board for	2	0	0	2
Psychologist Examiners, State Board of	3	2	0	5
Public Safety, Department of	10	11	0	21
Quartzsite City Council	1	0	0	1
Quartzsite Police Department	0	1	0	1
Queen Creek	2	1	0	3
Racing, Department of	4	5	0	9
Radiation Regulatory Agency	2	1	0	3
Real Estate, Department of	14	8	3	25
Regents, Arizona Board of	4	0	0	4
Registrar of Contractors	21	32	0	53
Respiratory Care Examiners, Board of	0	1	0	1
Retirement System, Arizona State	4	15	3	22
Revenue, Department of	26	37	0	63
Riverside School District	0	1	1	2
Safford	1	0	0	1
Sage Academy	1	0	0	1
Sahuarita Police Department	2	0	0	2
Salt River Pima-Maricopa Indian Community	1	0	0	1
Salt-River Pima County Indian Community	2	0	0	2
San Pedro Valley Hospital District	1	0	0	1
Santa Cruz	6	1	0	7
Santa Cruz Animal Control	0	3	0	3
Santa Cruz Sheriff's Office	1	0	0	1
School Facilities Board	1	0	0	1
Scottsdale	5	1	0	6
Scottsdale Police Department	0	1	0	1
Scottsdale Unified School District	1	0	1	2
Secretary of State, Office of	13	3	0	16
Sedona	1	0	0	1
Show Low Police Department	0	1	0	1
Sierra Vista School District	3	1	0	4
Sierra Vista	1	0	0	1
Somerton School District	0	0	1	1
Sommerton	1	0	0	1
Springerville	1	1	0	2
State Court	1	0	0	1
Structural Pest Control Commission	4	0	2	6
Sun City West Fire Board	1	0	0	1
Superior	1	0	0	1
Superior Court	5	1	0	6
Supreme Court	3	1	0	4
Surprise Police Department	1	0	0	1
Taylor	1	0	0	1
Technical Registration, Board of	0	2	1	3
Tempe	1	0	0	1
Tempe City Attorney's Office	2	0	0	2
Tempe Union High School District	1	0	0	1
Thatcher	1	0	0	1
Thatcher Police Department	0	1	0	1

Tolleson	1	0	0	1
Tombstone City Council	2	0	0	2
Transportation, Department of	18	12	0	30
Transportation-Motor Vehicle Division	31	74	4	109
Tucson	0	1	0	1
Tucson City Clerk's Office	1	0	0	1
Tucson Police Department	1	3	0	4
Tucson Public Defender's Office	1	0	0	1
Tucson Unified School District	3	0	0	3
University of Arizona	3	1	0	4
unknown	0	1	0	1
unknown charter school	15	0	0	15
unknown city	16	1	0	17
unknown fire district	5	1	0	6
unknown local jurisdiction	4	1	0	5
unknown school district	18	0	0	18
unknown state agency	7	0	0	7
Various Charter Schools	4	0	0	4
Various Cities/Towns	1	0	1	2
Various school districts	3	0	0	3
Veterans Home	1	2	0	3
Veterans' Services, Department of	5	4	0	9
Veterinary Medical Examining Board	4	3	0	7
Water Resources, Department of	3	4	1	8
Weights and Measures, Department of	10	3	2	15
Welton	1	0	0	1
Willcox	1	0	0	1
Yarnell Fire District	1	0	0	1
Yavapai	5	1	0	6
Yuma	1	0	0	1
Yuma City	6	4	0	10
Yuma County Library District	1	0	0	1
TOTAL NUMBER OF CONTACTS	2518	1518	257	4293